



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

February 6, 1998

Mr. W. Daniel Vaughn  
McLeod, Alexander, Powel & Apffel, P.C.  
P.O. Box 629  
Galveston, Texas 77553

OR98-0384

Dear Mr. Vaughn:

You ask this office to reconsider our ruling in Open Records Letter No. 97-2690 (1997). Your request for reconsideration was assigned ID# 113497.

The Board of Trustees of the Galveston Wharves (the "board"), which you represent, received a request for the complete incident report regarding an industrial accident on February 19, 1997. In Open Records Letter No. 97-2690 (1997), this office concluded that the board had not timely requested a ruling from the attorney general and, therefore, had waived the protection of section 552.103 of the Government Code. In your request for reconsideration you argue that the agreement you made with the requestor "included the ability for the Galveston Wharves to submit a decision request" to our office. You also claim that the "10-day extension Mr. Heslop gave [the board] constituted a resubmission of his open records request which would effectively begin our ten-day period anew." We disagree.

As we stated in Open Records Letter No. 97-2690 (1997), it does not appear that the requestor intended to give the board a ten-day extension to seek a ruling from the attorney general in order to withhold the information under an exception to disclosure. Furthermore, there is no indication in the correspondence that the requestor intended to withdraw his original request and resubmit it so as to grant the board a time extension. The letter to the requestor grants a "10 day extension within which to respond" to the request. Generally, a governmental body is required to notify the requestor of the date and time that information will be made available if the governmental body cannot provide the information within ten business days of receiving the request. See § 552.221(d). We do not believe, however, that this provision allows a governmental body to circumvent the requirement to submit a request for an open records decision within ten business days when the governmental body wishes to withhold the information. Gov't Code § 552.301 (governmental body that wishes to withhold requested information *must* ask for attorney general decision not later than tenth business day after receiving request).

We, therefore, affirm Open Records Letter No. 97-2690 (1997). If you have any questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Deputy Chief  
Open Records Division

LRD/rho

Ref.: ID# 113497

Enclosures: Submitted documents

cc: Mr. Barry C. Heslop  
Eastham, Watson, Dale & Forney, L.L.P.  
808 Travis, 20<sup>th</sup> Floor  
Houston, Texas 77002-5769  
(w/o enclosures)